S.B. CIVIL WRIT PETITION NO.1960/2005

Hamer Singh Vs. Shanti Lal and another.

Date : 4.4.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. P.S. Bhati, for the petitioner.

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Heard learned counsel for the petitioner.

It appears that the petition at pre-litigation stage was dismissed by the Permanent Lok Adalat because of the fact that nobody appeared on behalf of the respondent to enter into negotiations. However, the Permanent Lok Adalat ordered that the petitioner will be free to take appropriate steps for redressal of his grievance.

It appears from the facts of the case that the petitioner's claim before the Permanent Lok Adalat was with respect to some money of Rs.1,48,750/-. The grievance of the petitioner is that the Permanent Lok Adalat should not have dismissed the claim of the petitioner because of non-appearance of the respondents. Since the petitioner will have an appropriate remedy by filing the regular suit as at pre-litigation stage, no settlement could have been recorded because of non-cooperation of the respondents, therefore, I do not find any reason to interfere in such matter where the petitioner's claim has not been rejected

by the Permanent Lok Adalat.

The apprehension of the petitioners is that because of the time consumed before the Permanent Lok Adalat, the petitioner's suit may be time barred.

I do not find any substance in the aforesaid submission in view of the fact that the petitioner was pursuing the remedy before the Permanent Lok Adalat and the proceedings were dropped by order only on 14.2.2005 and thereafter, the petitioner preferred this writ petition which has not been entertained today, therefore, the petitioner can certainly move an appropriate application for getting the benefit of time consumed before the Permanent Lok Adalat and before this Court.

Learned counsel for the petitioner also submitted that in view of Order 7 Rule 10B C.P.C., the appellate court can transfer the suit to the proper court and because by invoking this power, the Permanent Lok Adalat could have transferred the complaint of the petitioner to the proper civil court.

I do not find any force in this submission also because of the fact that the Permanent Lok Adalat was not the appellate court having jurisdiction over any other court as the appellate court so as to allow him to transfer the case. Further, no provision has been brought to the notice of this Court by which the Permanent Lok Adalat itself

could have transferred the complaint of the petitioner as suit before the civil court. Apart from it, there are number of requirements for maintaining the suit which require payment of court fees, filing of affidavits and documents etc., therefore, also, if the Permanent Lok Adalat has permitted the petitioner to approach appropriate forum, then it has not committed any illegality but has passed the order legally.

In view of the above discussion, I do not find any reason to interfere in the impugned order while exercising supervisory jurisdiction under Article 227 of the Constitution of India.

Accordingly, this writ petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya